IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.8.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.580 of 2007

Abdul Rahman .. Petitioner

Vs

1. The State of Tamilnadu,
rep. by its Secretary to Government,
Prohibition & Excise Department,
Fort St. George,
Chennai 600009.

2. The Commissioner of Police,
Detaining Authority,
Coimbatore City. .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India for issue of Writ of Habeas Corpus to call for the entire records leading to the detention of the petitioner's uncle namely Balan @ Kovai Balan S/o.Tr.Govindasamy, detained under Act 14/82, vide detention order dt. 27.2.2007 on the file of the second respondent herein made in C.No.15/GIS/2007 quash the same and consequently direct the respondents herein to produce the body and person of the said detenu before this Court and thereafter set him at liberty from Central Prison, Coimbatore.

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For Petitioner : Ms.R.Subadra Devi
For Respondents: Mr.N.R.Elango
Additional Public Prosecutor

ORDER

(Order of this Court was made by P.D.DINAKARAN,J.)

The order dated 27.2.2007, passed by the second respondent, dubbing one Balan @ Kovai Balan, son of Govindasamy, as an Immoral

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Traffic Offender and directing his detention under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), is challenged in this writ petition by a friend of the detenu.

2. According to the detaining authority, viz., the second respondent, the ground case is said to have taken place on 19.2.2007 at 17.00 hours on the basis of the complaint lodged by one Suresh @ Moses. According to the complainant, when he was waiting for bus at Gandhipuram, a person came and solicited him for prostitution by showing a woman. When he refused, the said person threatened him by showing a knife and the said lady snatched a sum of Rs.500/- from his pocket. Based on the complaint, a case was registered in Crime No.242/2007 under Section 4(2)(c) and 8(b) of ITP Act and Section 386 of IPC on the file of B4 Race Course Police Station and the detenu along with three accused was arrested on 19.2.2007 and remanded to judicial custody.

3. The second respondent, taking note of the above case as a ground case and finding that there is an adverse case pending against the detenu for the offence punishable under Section 4(2)(c) of ITP Act in Crime No.602/2006 on the file of B4 Race Course Police Station, and having satisfied that there is a compelling necessity to detain him in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public order, ordered his detention dubbing him as an Immoral Traffic Offender.

4. The main contention of the learned counsel for the petitioner is that even though in the first information report found at page 1 of the booklet, it is stated that the case was registered at 5 p.m. on 19.2.2007, in the grounds of detention, it is stated that the Inspector of Police, B4 Race Course Police Station, Coimbatore City, came to the police station at 7 p.m. on 19.2.2007 along with the accused and the seized properties and thereafter, a case was registered as referred to above, which would go to show that the detaining authority has not applied his mind while passing the impugned order of detention.

5. The learned Additional Public Prosecutor is not in a position to give any explanation for the non application of mind by the detaining authority.

6. We are satisfied that apparent on the face of the record, the impugned order of detention suffers from non application of mind by the detaining authority. Therefore, on this count, the petition has to be allowed. We, therefore, allow this petition and

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set aside the impugned order of detention. The detenu is directed to be released forthwith, unless he is required in any other case.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

ATR

To

1. The Secretary to Government,
   State of Tamilnadu,
   Prohibition & Excise Department,
   Fort St. George,
   Chennai 600009.

2. The Commissioner of Police,
   Coimbatore City.

3. The Superintendent,
   Central Prison,
   coimbatore.

4.The Joint Secretary to Govt.,
Public (Law and Order),
Fort St. George, Chennai-9.

5. The Public Prosecutor,
   High Court, Madras.

JSK (CO)
km/12.9.

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